

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 3366**, a text amendment to Title 27 of the Lincoln Municipal Code (the Zoning Ordinance), requested by the Directors of the Public Works and Utilities, Parks and Recreation and Planning Departments, to adopt provisions for impact fees.

STAFF RECOMMENDATION: Approval of revised ordinance dated October 8, 2002, with amendment dated October 14, 2002.

ASSOCIATED REQUESTS: Miscellaneous No. 02005, text amendment to Title 26 (02-161), and associated resolution adopting the fee schedules (02R-247).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 06/26/02 and 09/18/02
Administrative Action: 10/16/02

RECOMMENDATION: Approval, as revised on October 8 and October 14, 2002, with two amendments (6-2: Steward, Bills-Strand, Krieser, Larson, Carlson and Newman voting 'yes'; Duvall and Schwinn voting 'no'; Taylor absent).

FINDINGS OF FACT:

1. This Factsheet contains the staff report, as revised on September 5, 2002 (p.2-13); the "Summary of Proposed Amendments" set forth in the October 8, 2002, substitute ordinance (p.14-19); the "Cash Flow Analysis" for Wastewater, Water and Street Construction submitted by Allan Abbott, Director of Public Works and Utilities, on June 26, 2002 (p.20-22); the amendment proposed by the staff dated October 14, 2002, regarding the Downtown/Antelope Valley Arterial Street Fee Exclusion, which was adopted as part of the revised staff recommendation (p.23-24); the amendment proposed by staff dated October 16, 2002, exempting certain other governmental agencies (p.25), which was adopted by the Planning Commission; the Motion to Amend submitted by Commissioner Bills-Strand (p.26-27) on October 16, 2002, which was adopted by the Planning Commission; and a "Summary of Planning Commission Action" dated October 17, 2002 (p.28-33), which was presented to the Council on October 21, 2002.
2. The Minutes of the two public hearings before Planning Commission held on June 26, 2002 and September 18, 2002, and the action by the Planning Commission on October 16, 2002, are submitted as **Exhibit "A"** and incorporated herein by this reference. All Exhibits (#1 through #25) submitted at the public hearing on September 18, 2002, and referenced in the Minutes are attached to **Exhibit "A"** and are incorporated herein by this reference, except one copy of the "Impact Fee Analysis Handbook" submitted by the Home Builders Association of Lincoln (the index being found on Exhibit #2) is on file in the City Council office and one copy is on file in the Planning Department office.
3. All correspondence received by the Planning Commission throughout the public hearing process is submitted as **Exhibit "B"** and is incorporated herein by this reference.
4. The staff recommendation of approval, as revised on October 8 and October 14, 2002, is based upon the "Analysis" as set forth on p.8-12, concluding, in part, that the proposed impact fee ordinance and changes to the subdivision ordinance are in conformance with the Comprehensive Plan and could help provide for growth and development of the community (See "Conclusion", p.12-13).
5. On October 16, 2002, the Planning Commission agreed with the revised staff recommendation and voted 6-2 to recommend approval of the impact fee ordinance, with two amendments as set forth on p.25-27 (Schwinn and Duvall dissenting; Taylor absent). The Planning Commission discussion is found on p.65-73 of **Exhibit "A"**.
6. The associated Ordinances, Resolution and the Impact Fee Study are included in the Factsheet notebook.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: October 21, 2002

REVIEWED BY: _____

DATE: October 21, 2002

REFERENCE NUMBER: FS\CC\CZ.3366-IFS

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: CZ#3366, Misc.#02005

DATE: June 18, 2002

Revised September 5, 2002

Note: This is a combined staff report for related items. This report contains a single background and analysis section for all items.

PROPOSAL:

Change of Zone #3366: Amendment to Zoning Ordinance **Adopt provisions to provide for Impact Fees**

Misc #02005: Amendment to Subdivision Ordinance
Amend bike trail easement width from 14 to 20 feet
Clarify reference to Comprehensive Plan
Provide for dedication of park land

CONCLUSION: The proposed Impact Fee Ordinance and amendment to the subdivision ordinance is in conformance with the 2025 Comprehensive Plan and could help provide for growth and development of the community. The proposed system is one part of an overall strategy that could provide adequate resources to maintain existing infrastructure and protect property values in the community. Impact fees provide for uniformity and equity among property owners and like land uses.

RECOMMENDATION:

Approval of Ordinance as Revised

LEGAL DESCRIPTION:

Zoning Code – amend to add the following sections to provide for :

27.82.010 a title, authority and applicability;
27.82.020 legislative findings and purpose; 27.82.030 to provide intent;
27.82.040 definitions;
27.82.050 imposition of impact fees;
27.82.060 exemptions from impact fees;
27.82.070 creation of an impact fee fund and impact fee accounts;
27.82.080 refunds of impact fees paid;
27.82.090 Post-Ordinance developer agreements regarding impact fee facilities;
27.82.100 Pre-Ordinance developer reimbursement for participation in financing or constructing impact fee facilities;
27.82.110 miscellaneous provisions.

Land Subdivision Ordinance – to amend the following sections:

26.23.040 (Table 26.23.040) to modify the reference to the Comprehensive Plan and to increase the minimum right-of-way width for bikeways from a 14-foot easement to a 20-foot easement; Section 26.23.160 to require a dedication of land or payment of an impact fee for neighborhood parks and trails; and to repeal Sections 26.23.040 and 26.23.160.

APPLICANT:

The Directors of Parks & Recreation, Planning, and Public Works & Utilities Departments

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SUMMARY:

After two years of public process and consideration of alternatives, several measures to improve the equity, predictability and amount of revenue for the financing of capital infrastructure costs are being forwarded. Impact fees are one part of the overall approach. The City's Infrastructure Financing Strategy provides a balance between costs fairly associated with new development being paid by new development, with some of these costs still being subsidized by the public as a whole through utility fees and taxes.

Under the current system the community as a whole is financing as much as 85 to 90% of the infrastructure costs to provide for new development. As the community grows, there are additional utilities, roads, trails and parks to build while also maintaining an aging infrastructure to serve existing neighborhoods. The goals of Comprehensive Plan encourage new development and project a 1.5 % growth rate coupled with a significant expansion in the City's land area over the next 25 years.

However, there is a significant gap between the costs associated with this growth and the amount of funds brought in under the current funding system. A shortage of nearly \$290 million is anticipated, if the current practice of paying for improvements is continued.

If the current system continues, there will not be adequate resources to provide for maintenance and new infrastructure to encourage development. Also, the present practice of negotiating improvements on a case by case basis does not provide predictable costs and as is viewed by some as inequitable.

The proposed impact fee is to be paid at time of building permit. Any fees paid by a builder are ultimately paid by the property owner. Impact fees collected for arterial streets, water, wastewater and parks/trails are deposited in a separate account. These funds could then be used only for new construction. For example, water impact fees can only be used for new water improvements, such as major water lines, reservoirs, pumping stations and water treatment.

For arterial streets and parks/trails it is proposed that the city be divided into four **benefit areas**. Each benefit area would have a separate account and fees collected in the benefit area could only be used for new construction in that area. A single city wide benefit area is proposed for water and sewer impact fees. Impact fees would have to be spent within a 10 year time period. Impact fee accounts would be audited annually as well.

Impact fees are paid only collected on new construction. The fee would only be collected for an entirely new dwelling, not for additions to or remodeling of existing homes. Likewise, new houses that are replacing a previously existing dwelling, there would be no fee. For businesses, it would apply to any additions, expansions and new buildings, with an credit for the floor area of a previous business being replaced.

HISTORY: Summary of public process

2000

June 20	Press Conference on hiring of Duncan Associates and beginning of Infrastructure Financing Study (IFS) process
July	City Council, County Board and Mayor appoint members to IFS Advisory Committee (IFSAC)
August 15	First IFSAC meeting
August 31	First Public Presentation: Review All Financing Alternatives (presentation taped and run on 5 City TV
Sept.	IFSAC meetings, FINANCIAL ALTERNATIVES and CAPITAL COST OF GROWTH reports released
Oct 11	IFSAC meetings and briefings for groups including Mayor's Neighborhood Roundtable and Home Builders Association of Lincoln (HBAL)
Oct. 19	IFSAC Public Forum at Council Chambers
Nov.	IFSAC meetings and briefings of groups including Lincoln Independent Business Association (LIBA). FISCAL IMPACT ANALYSIS report released
Nov. 16	IFSAC public forum at Gere Library
Dec.	IFSAC meetings and briefings of City Council and Mayor's Neighborhood Roundtable briefing

2001

Jan 8.	Final IFSAC meeting and Final Report completed
Feb.	Lincoln Journal Star article on IFS proposal and City Council briefing

Sept. 26	Discussion with Lincoln Chamber of Commerce (LCC) Infrastructure subcommittee
Oct.	Briefings and discussion at meetings of Mayor's Neighborhood Roundtable, HBAL, Lincoln Chamber of Commerce(LCC), LIBA, Realtors Association of Lincoln (RAL)
Nov.	Joint meeting with HBAL, LCC, LIBA & RAL
Dec.	Joint Meeting with HBAL, LCC, LIBA & RAL

2002

Feb -Mar.	Additional discussion with members of organizations
Mar. 19	Public Forum at Lux Middle School (presentation taped on replayed on 5 City TV)
Mar. 19	Revised Capital Cost of Construction report (IMPACT FEE STUDY) released
April - May	Discussion with representatives from neighborhood organizations, HBAL, LCC, LIBA & RAL, Lincoln Housing Authority, Habitat for Humanity and Housing Resources Inc., Downtown Lincoln Association
May 28	Adoption of 2025 Comprehensive Plan by City Council and County Board with new section on Financial Resources
<u>June - Aug.</u>	<u>Numerous meetings held with various neighborhood, civic, housing, and business organizations to discuss options and potential changes in the proposal.</u>
<u>August 22</u>	<u>Fair Share Alliance held a public forum at Auld Recreation Center</u>
<u>August 26</u>	<u>City Council briefing and distribution of revised ordinance, overall financing strategy and first release of proposed impact fee schedule</u>

Letters in support of impact fees and the overall Infrastructure Financing Strategy have been received from the Meadowlane Area Residents Association, the Arnold Heights Neighborhood Association, Clinton Neighborhood, East Campus Community Organization, Hartley Neighborhood, Hawley Area Neighborhood, Landons Neighborhood, Near South Neighborhood, North Bottoms Neighborhood, the University Place Community Organization and others.

COMPREHENSIVE PLAN SPECIFICATIONS:

These proposals are in conformance with the new 2025 Comprehensive Plan. Selected pertinent sections from the Plan include:

The pertinent principles in regards to impact fees include:

“Guiding Principles

In order to meet the goals of financing new improvements and maintaining the built environment, the following principles are identified:

Overall Guiding Principles

There needs to be a balance between new infrastructure in developing areas and the improvements and maintenance needs of the existing community. Funding for infrastructure improvements should not focus all of the funds into developing areas, leaving inadequate resources to address needs in other areas. The City and County need to adequately fund infrastructure maintenance and improvements in existing towns and neighborhoods.

The City and the County will work cooperatively in as many areas possible in order to provide services in the most efficient manner possible.” (Page F 159)

“Guiding Principles for Financing Urban Infrastructure

A Balanced Approach: The community at large should provide more financing of maintenance and improvements in existing areas. Both new and existing development should pay its fair share of improvement costs due to growth and maintenance. In general, improvements which are of general benefit to the whole community should be paid by the community while improvements which are of special benefit to a specific area should be paid by that area.

Develop a Fair & Predictable System: Distribute infrastructure costs fairly among all property owners who benefit from the improvements. The goal of the financing system is that costs should be known in advance of development.

Conformance with Comprehensive Plan: Infrastructure improvements should continue to be developed only in areas identified for development in the Lincoln/ Lancaster County Comprehensive Plan. One of the most important tools in financing is adherence to the physical plan for the community. Following the Plan for development and systematic improvements throughout Lincoln increases efficiency in construction and maximizes the community’s investment.

Conformance with Capital Improvement Program (CIP): The CIP should be utilized to provide a systematic and predictable forum for determining the timing of infrastructure improvements.

Greater Development Efficiency: Maximize the community’s investment in infrastructure through greater efficiency in residential and commercial development. Particularly in new development, an increase in the amount of commercial floor area and residential population, compared to typical suburban patterns, will decrease the amount of infrastructure necessary overall in the community.

Use an Appropriate Financing Method for Each Infrastructure Need: One method of financing may not be appropriate for all types of infrastructure needs.

Minimize Impact on Affordable Housing: Infrastructure financing should not increase the cost of affordable housing in Lincoln and the City should encourage retention of affordable new housing in existing neighborhoods.

Minimize Impact on Those Who Are Not Developing Land: As much as possible, property owners should only be assessed or pay the improvement costs at the time they seek approval of development proposals or building permits. Financing mechanism should not impact property owners in an area under development who don't want to develop their land at that time. The community should grow in an orderly compact fashion and therefore infrastructure improvements should be made in a timely manner. Property owners need to be educated about the growth and infrastructure plans to reduce the elements of surprise and anger and to foster more informed personal planning decisions.

Increase the Amount of Revenue: Property owners should participate in funding improvements in new areas at generally the same rate. Today, some new developments pay a lot for improvements while others sometimes pay nothing. In the future, all new developments should pay at generally the same level.

Build More Improvements Sooner: The City should attempt to build more road, water and wastewater improvements each year, without an adverse impact on property taxes. Accelerating improvements will require millions of more dollars and should only be done if new financial resources and alternative financing techniques have been implemented.

The goal is to find the means in order build 25 years worth of improvements over a 20 year period in order to ensure the well-timed delivery of urban infrastructure. The Plan Realization section further describes the mechanisms that will link urban infrastructure programming to local market and growth conditions. It is important that there be adequate funds for the maintenance of infrastructure in the existing urban area as future growth occurs.

Concurrent Improvements: Infrastructure improvements should be made concurrent with development. Except in limited cases, such improvements should not be made in advance of development proposals in an area. There should be adequate infrastructure in place every year to accommodate housing and employment demands.

Timing: As projects are requested for faster implementation by a developer than are identified in the City's Capital Improvement Plan and the County 1 and 6 Program, the developer must be prepared to make financial contributions to improvements necessitated by a project if their project is moved to an earlier date.

Encourage Efficiency: There should be further cooperation between the public and private sector and long range planning efforts to save on the City's development costs that could be used for infrastructure improvements." (Pages F 160 -161)

The strategies section then lists the different suggested mechanisms to meeting these principles. Impact fees is specifically stated in the following (connection fees referenced below are same as impact fees):

“Water & Wastewater

The Community should establish a balanced system of financing improvements that uses both connection fees paid by new construction and utility fees paid by rate payers throughout the city.

Establish a connection fee in newly developing areas, to be paid at time of building permit, to recover a portion of the capital costs to build trunk sewer lines and water mains. The fee should not significantly impact housing costs and could be less regressive if smaller lots paid less for the water connection fee. The connection fee should be paid by residential, commercial, industrial and public/semi-public uses.” (Page F 161-162)

“Arterial Streets

The Community should establish a balanced system of financing improvements that uses both impact fees paid by new construction, wheel taxes paid by rate payers throughout the city and state and federal funds.

Establish an impact fee at time of building permit for road improvement costs in developing areas. Fees should not be at full capital recovery cost for residential uses. Large traffic generators, like commercial and industrial businesses, will pay a majority of the costs due to their traffic impact. Some mechanism should be employed so that the road impact fee does not impact affordable housing.” (Page F 162)

“Parks and Trails

The Community should establish a balanced system of financing improvements that uses both impact fees and land dedication paid by new construction with general revenue taxes paid by the community as a whole.

Establish a mandatory park land and trail dedication requirement for residential plats. Establish a park and trail impact fee that can be paid in-lieu of land dedication.” (Page F 162)

ANALYSIS:

The City with Duncan Associates has completed a study of the capital costs of providing water, wastewater, arterial streets and neighborhood parks and trails for new development. This study looked at the improvements needed and what infrastructure capacity was needed by new development. For example, the study identified how much water treatment capacity was needed per new dwelling unit or business. For arterial streets, it identified the number of new automobile trips generated by different land uses. Table 1 lists the capital cost for new construction based on the updated Impact Fee Study.

Table 1
Capital Cost of Construction – Updated June 1, 2002

Facility	Arterial Streets	Water	Waste-water	Parks & Trails	Total
Single Family Dwelling Unit	\$3,235	\$3,669	\$1,815	\$321	\$9,040
Multi-Family Per Dwelling Unit	\$1,964	\$611	\$302	\$190	\$3,068
Retail Store 10,000 square feet	\$40,770	\$3,910	\$1,940	n/a	\$46,620
Office Building 10,000 square feet	\$47,690	\$3,910	\$1,940	n/a	\$53,540
Industrial Use 10,000 square feet	\$29,170	\$3,910	\$1,940	n/a	\$35,020

Note: see June 1, 2002 draft Impact Fee Study for details. Multi-family assumes 6" meter for 200 unit apartment complex; nonresidential assumes 3" meter for a 100,000 sq. ft. building.

The first calculation of the capital costs of construction was concluded in September 2000. These costs were then reviewed and revised to create the draft Impact Fee Study in March 2002. Both of these studies were reviewed by engineers and others in private sector. While suggested changes improved the analysis, they did not change the findings that the typical single family home requires a net cost of approximately \$9,000 in order to provide water, wastewater, arterial streets and neighborhood parks/ trails.

Some have suggested that the costs calculations are too high because they include the costs to provide water and wastewater treatment, water storage, water pumps and the water transmission main from Ashland. While these costs have traditionally been paid for by the community as whole, they are none the less part of the capital cost providing for a new single family home. If the community were not expanding, then additional treatment, storage, pumps and transmission lines would not be necessary.

For arterial streets, some have suggested the costs set a new standard since they include median landscaping, dual turn lanes and traffic signals. Many new arterial streets include median landscaping (S. 40th and 70th Street as an example) dual left turn lanes (27th & Pine Lake Road or 27th & Superior) or additional traffic signals (numerous locations along 84th Street or Pine Lake Road.) The City also estimates that about one in four new miles of arterial streets will include a bike lane, such as is found along portions of 70th Street, 84th Street and Pine Lake Road.

The impact fee ordinance includes a new **arterial street impact fee** which would be paid by new construction at time of building permit. The fee would vary based on the number of automobile trips a use generated. Thus, a new 10,000 square feet retail or office building would pay a significantly higher fee than a single family house. Impact fees can only be used for new construction -- they could not be used for maintenance. In new areas, developers could wait for the city to build arterial street improvements through the capital improvement process or improve the arterial street themselves and

receive reimbursement from impact fees paid a credit against the arterial street impact fees to be paid within their development for the value of their improvement. The revised proposed ordinance changes the system of credits to direct reimbursement of the developer. This simplifies the process for realtors and builders in that they will not have to keep track of which lots have a credit and how much is the credit.

Water and wastewater impact fees would be paid at time of building permit by any new construction. The amount of the fee would depend on the size of the water meter. The greater the impact on the water and wastewater system, the larger the fee. Thus larger water users who require larger meters would pay more. Increases in meter size needed due to a fire sprinkler system would not increase the fee. The fee is based on the water meter capacity needed for typical daily use.

Impact fees would not apply to residential remodels or additions, since they don't increase the demand on the system and typically don't increase the size of the water meter. However, any change in meter size due to a lawn irrigation system would not be exempt from the fee.

A water and wastewater impact fee is a more equitable and predictable way to determine the appropriate amount that new development should contribute to improvement costs. It ensures that all property being developed contributes equally per dwelling unit or per square feet of commercial/industrial use.

The water and wastewater impact fees if phased in over a period of years would only cover a portion of the total capital costs. The remaining costs would be paid through utility rates by the citizens as a whole.

A Neighborhood Park and Trail Impact Fee in the zoning ordinance and a new mandatory **park land dedication** is the subdivision ordinance are proposed. In addition, the proposed changes to the subdivision ordinance would correct the trail easement width from 14 to 20 feet and clarify the reference to the Comprehensive Plan for right-of-way dedication. The neighborhood park and trail impact fee would be used for park improvements, trail paving or acquisition of land where the mandatory park land dedication did not provide for adequate space. Residents of Lincoln would continue to develop larger size parks and recreational facilities through general obligation bonds and other funds.

Other Alternatives: Beginning in the summer of 2000, many different alternatives were reviewed. The alternative most often suggested is to use some type of special assessment district. Assessment Districts typically rely on the city making the improvement, then assessing adjacent property owners over a 15 to 20 year period their share of the cost plus interest. This tool could be used in some circumstances to make a local road or utility improvements in which there is multiple property owners. However, assessment districts are not suitable for large areas and significant improvements for the following reasons:

- a. State statutes prohibits their use outside of the city limits, thus they are of minimal use in developing areas. It is not advantageous to the property owners nor the City to annex vast areas for purposes of assessment.

- b. Assessment districts are not predictable, they rely on approval of the City Council and may be opposed by property owners in the area.
- c. District funding relies on the city to have significant funds on hand to be able to finance the improvements in advance of repayment over 15 to 20 years.

~~Collection of assessments is less certain and may be limited if property owners default on paying assessments. Failure to pay an assessment becomes a lien which may not be able to be collected until the property is sold.~~

- d. Assessments could be levied against those not needing or requesting improvements such as churches or acreage owners who may already be served by suitable well and septic service. The Comprehensive Plan states **“Minimize Impact on Those Who Are Not Developing Land.”**

Another alternative for water and wastewater is to collect a fee of \$500 or some amount per water connection. However, a “flat” fee approach treats a single family use the same as a high water intensive use, such as some industrial uses.

~~The final details of the impact fee schedule and the overall infrastructure financing strategy are still under discussion and have not yet been concluded. Fee schedules and utility rates are items directly forwarded to the City Council for review and action.~~

~~Several groups have suggested adjustments to the impact fee ordinance. If the base ordinance is adopted by the City Council, then the Council could request additional enhancements to the ordinance be developed and forwarded for consideration. Some suggested changes include:~~

- ~~a) Reduce fees or remove redevelopment areas, such as Antelope Valley;~~
- ~~b) To reduce costs to low income housing;~~
- ~~c) Provisions to encourage mixed use developments; and~~
- ~~d) Downtown trip reduction due to mix of uses and pedestrian character.~~

As a result of discussion with many different groups over the past several months, the impact fee ordinance has been revised to include:

1. Providing for “category exemption” for Annexation Agreements approved prior to June 2002. Property within prior “annexation agreements” will be exempt from impact fees in each category that they contributed to these improvements. For example, if a developer agreed to contribute to some of the water and arterial street costs in an annexation agreements, then the property covered by that agreement would be exempt from water and arterial street impact fees. These annexation agreements contain approximately 8,000 unbuilt dwelling units and over 10 million square feet of unbuilt commercial and industrial space. This represents a significant portion of the new construction for the next 5 to 10 years. Thus, this will significantly reduce any economic impact since fewer properties will be paying the full fee.

2. Impact Fees will begin **at \$2,500** per single family house and will be **phased in over five years to \$4,500**, with annual inflation for construction costs added. The fee schedule is substantially below the actual capital costs of these improvements. In addition, **implementation of impact fees would be delayed until June 1, 2003.**
3. **A Downtown/ Antelope Valley Arterial Street Exclusion area** for consideration. The Impact Fee Study was recalculated to determine the arterial street fee, excluding all the traffic capacity and land use in a specific area, generally 8th to 28th Street, from G Street to State Fair grounds and Salt Creek. The Comprehensive Plan encourages redevelopment and investment in the Downtown and Antelope Valley area. Excluding this area from paying arterial street impact fees would aid in attaining these goals. However, this also means that arterial street impact fees paid outside of this area could not be used for any street improvements inside the Downtown/ Antelope Valley area.

This proposal was added to the ordinance for the consideration of the community and groups interested in the Downtown and Antelope Valley. At this time, specific comments from interested groups or the community on this aspect have not yet been received.
4. **A redevelopment “credit bank”** for use in redevelopment areas. This change would allow for properties purchased by the city for demolition due to future road expansion or channel development, that the credit for the existing buildings be retained by the City for use within that same redevelopment area. For example, if a 10,000 square foot commercial building in the Antelope Valley area was purchased for demolition to make way for a new channel and park land, the City could use this commercial space as credit to reduce the impact fees of a new commercial building as part of a redevelopment agreement. This “bank” of credits would aid in the goals of the Comprehensive Plan of encouraging redevelopment.
5. Impact fees for rental and owner occupied **low income housing** for persons below 60% of median income would be exempted. Impact fees for new construction for dwellings with income between 60 and 80% would be reduced by half.

CONCLUSION:

The proposed impact fee ordinance and changes to the subdivision ordinance are in conformance with the Comprehensive Plan and could help provide for growth and development of the community. The proposed system is also one part of an overall strategy that could provide adequate resources to maintain existing infrastructure and protect property values in the community. Impact fees provide for uniformity and equity among property owners and like land uses. The impact fee system would take effort and adjustment to transition to the new system, but it would establish a better financing system.

Impact fees are an important part of the overall financing strategy. Without impact fees, the current system of negotiations, which is viewed as unpredictable and inequitable, would continue. Impact fees are part of an overall strategy which could increase revenue for improvements, with the increase in funds coming both from new development and the community as a whole.

Without impact fees, the community has few viable or desirable choices. One option would be to significantly raise wheel taxes and utility rates in order to provide for the adequate resources. However, this would place the vast majority of the burden on the community as a whole, which is not in keeping with the goals of the Comprehensive Plan to have a balanced approach. Another option is to do nothing, which would continue the current system and would ultimately provide inadequate resources for maintenance and new development — a future the community does not desire.

Impact fees would distribute costs among new developments in more fair, uniform and predictable manner than the current system. These costs would be balanced by increased costs for the community as a whole through some increases in utility rates. This new financing tool can help the community achieve growth goals while ensuring that the cost of growth is paid for in a fair and equitable manner.

Prepared by:

Stephen Henrichsen, AICP
Principal Planner

**Impact Fee Ordinance
Summary of Proposed Amendments
Substitute Ordinance October 8, 2002**

As a result of the September 18th public hearing and other suggested changes, the City has prepared and is forwarding a revised ordinance with the following changes for action by the Planning Commission on October 16th.

Proposed Amendment

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| 1. Amendment to divide into Seven Arterial Street Benefit Areas (27.82.070 "Impact Fee Funds") | Suggested by Kent Seacrest on behalf of Southview Inc., Ridge Development Co., Eiger Development, Don Linscott, and NEBCO Inc. and by the Realtors Association of Lincoln and others that there be more benefit areas |
| 2. Divide Water Impact Fee into two parts: Water System Fee and Water Distribution Fee. Amendment also includes a minor change to clarify that wastewater impact fees could be used to build improvements outside the city limits, which is sometimes necessary due to topography (27.82.070) | Suggested by Kent Seacrest, Realtors Association of Lincoln and others that there be more benefit areas |
| 3. Amendment to divide Water Distribution Fee into Seven Water Distribution Benefit Areas (27.82.070) | Suggested by Kent Seacrest, Realtors Association of Lincoln and others that there be more benefit areas |
| 4. Amendment to divide Neighborhood Park & Trail Impact Fee to Seven Neighborhood Park and Trail Benefit Areas (27.82.070) | Based on suggestion by Kent Seacrest, Realtors Association of Lincoln and others that there be more benefit areas |
| 5. Amend Neighborhood Park & Trail fee map to exclude existing neighborhoods with sufficient parks & trails so that fee is not collected in these areas (27.82.070) | Based on suggestion by Kent Seacrest |
| 6. Change time period for City to use impact fee funds before refund from 10 to 8 years and give up to 6 months for application of refund (27.82.080 "Refunds of Impact Fees Paid") | Suggested by Kent Seacrest |
| 7. Change to allow other funds, such as wheel tax, utility rates, to repay developer who makes eligible improvements. (27.82.090 "Post Ordinance Developer Agreements") | Suggested by Kent Seacrest |
| 8. Change 'Discretion to Reduce Impact Fees' in order to "promote economic development of the City or the public, health, safety and general welfare" to action by Mayor based on criteria set by City Council. (27.82.110 "Miscellaneous Provisions") | Based on suggestion by Kent Seacrest |

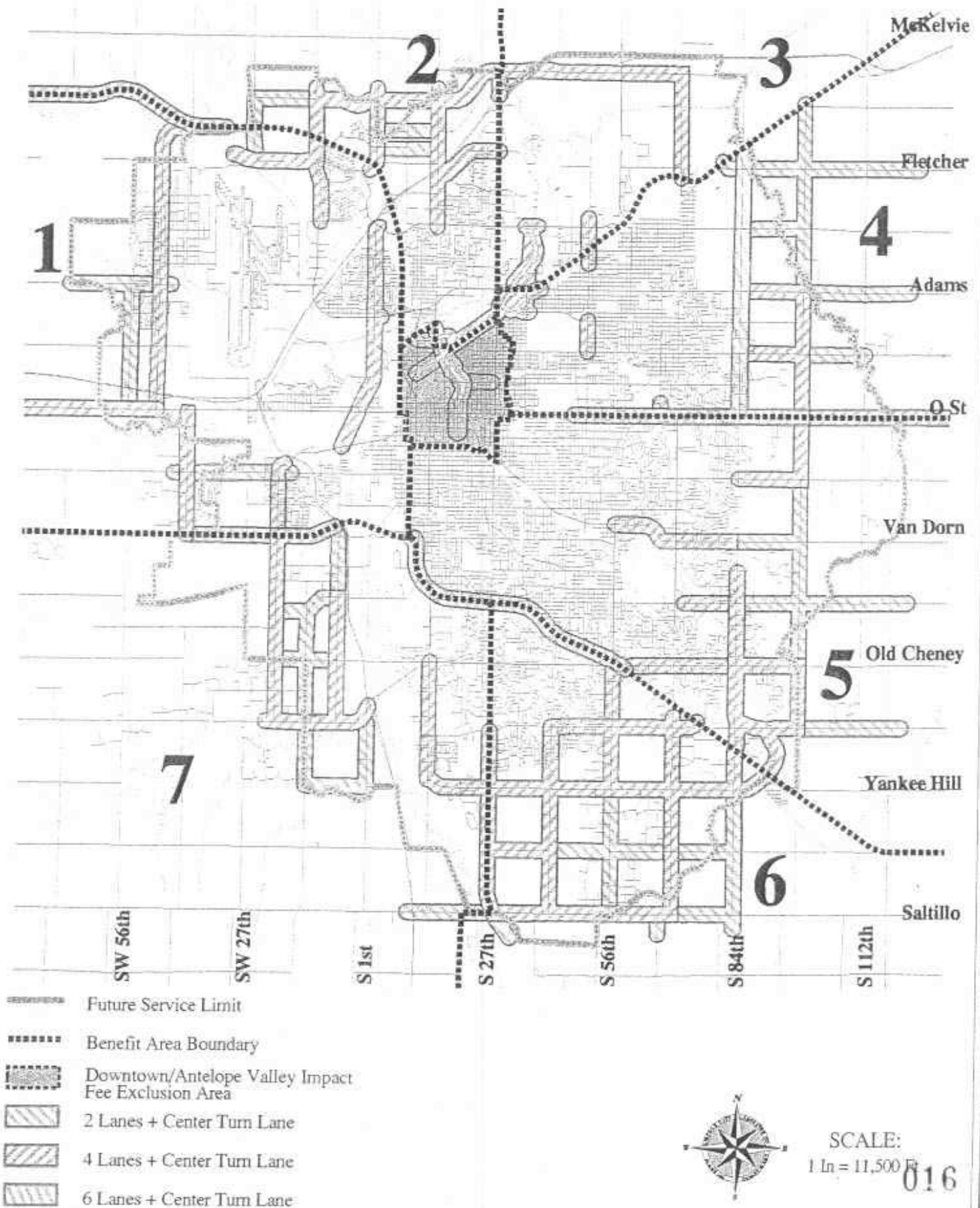
Proposed Amendment

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| 9. Minor changes in 27.82.020 "Legislative Findings and Purpose" and 27.82.030 "Intent" to clarify ordinance intent and recognize previous annexation agreements | Suggested by various persons. Clarifies that upgrades in water meter size due to fire protection systems will not be charged an impact fee |
| 10. Add definition of cost of construction, encumber, fee payer, low and moderate income areas and clarify other definitions. (27.82.040 "Definitions") | Suggestions by Realtors Association of Lincoln, Kent Seacrest and others. |
| 11. Amend exemptions section to add a table listing qualifying annexation agreements; clarify fire protection exemption; and provide for application of low income exemption up to 30 days after occupancy permit (27.82.060 "Exemptions") | Suggestions by Realtors Association of Lincoln, Kent Seacrest and others. |
| 12. Clarify in Section 27.82.090 "Post Ordinance Developer Agreements" and 27.82.100 "Developer Reimbursement" that land dedicated for parks, water and wastewater facilities is eligible | Clarification suggested by Kent Seacrest |
| 13. Correct 27.82.110 "Miscellaneous Provisions" to note that inflation will be factored beginning in January 2004 as noted in the impact fee proposal | Correction noted by city staff. |

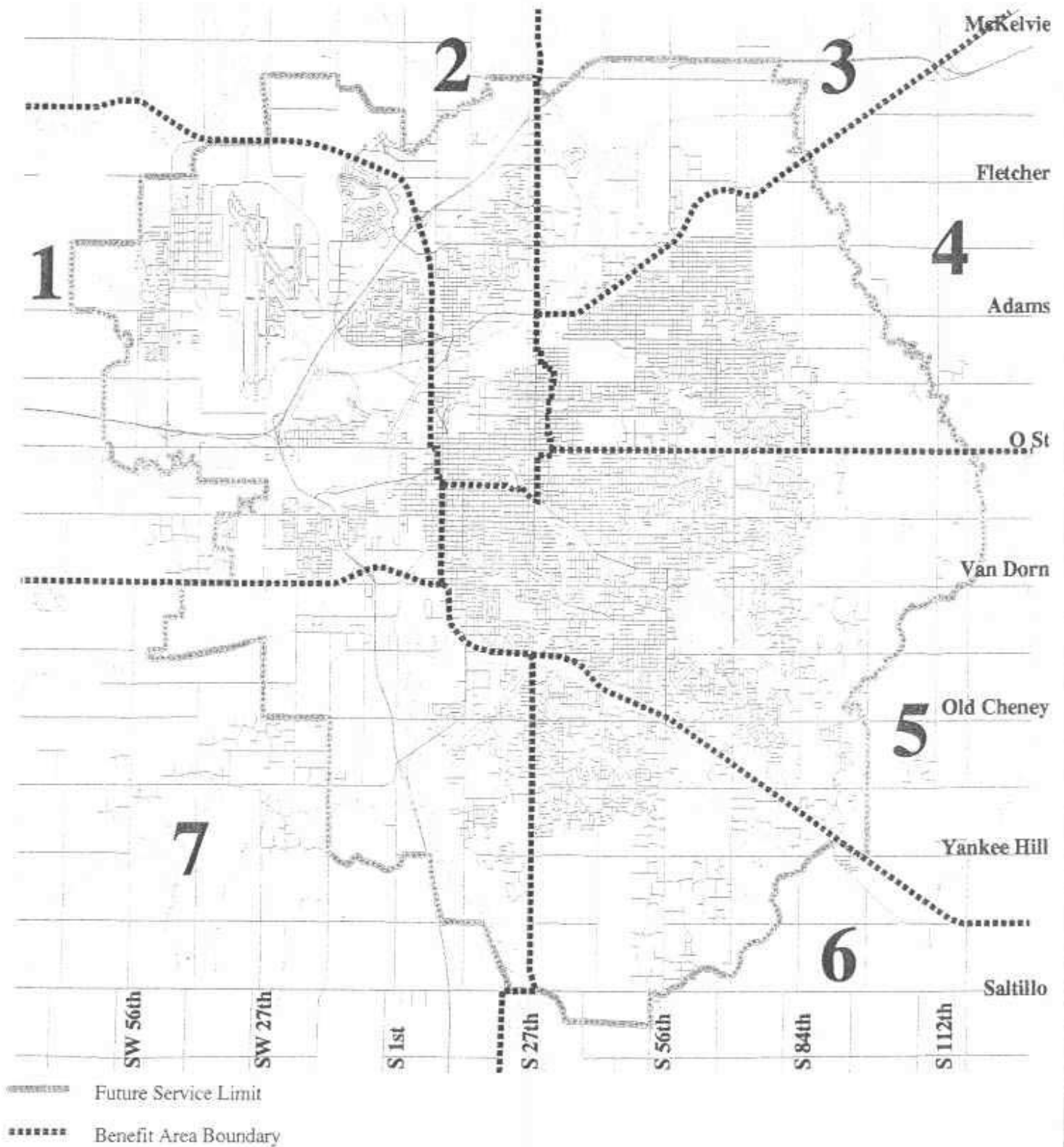
If you have any questions about the amendments, please contact:

Rick Peo, City Attorney's Office at 441-7264,
Stephen Henrichsen, Planning Department at 441-6374, or
Steve Masters, Public Works and Utilities at 441-7588

ARTERIAL STREET IMPACT FEE BENEFIT AREAS MAP



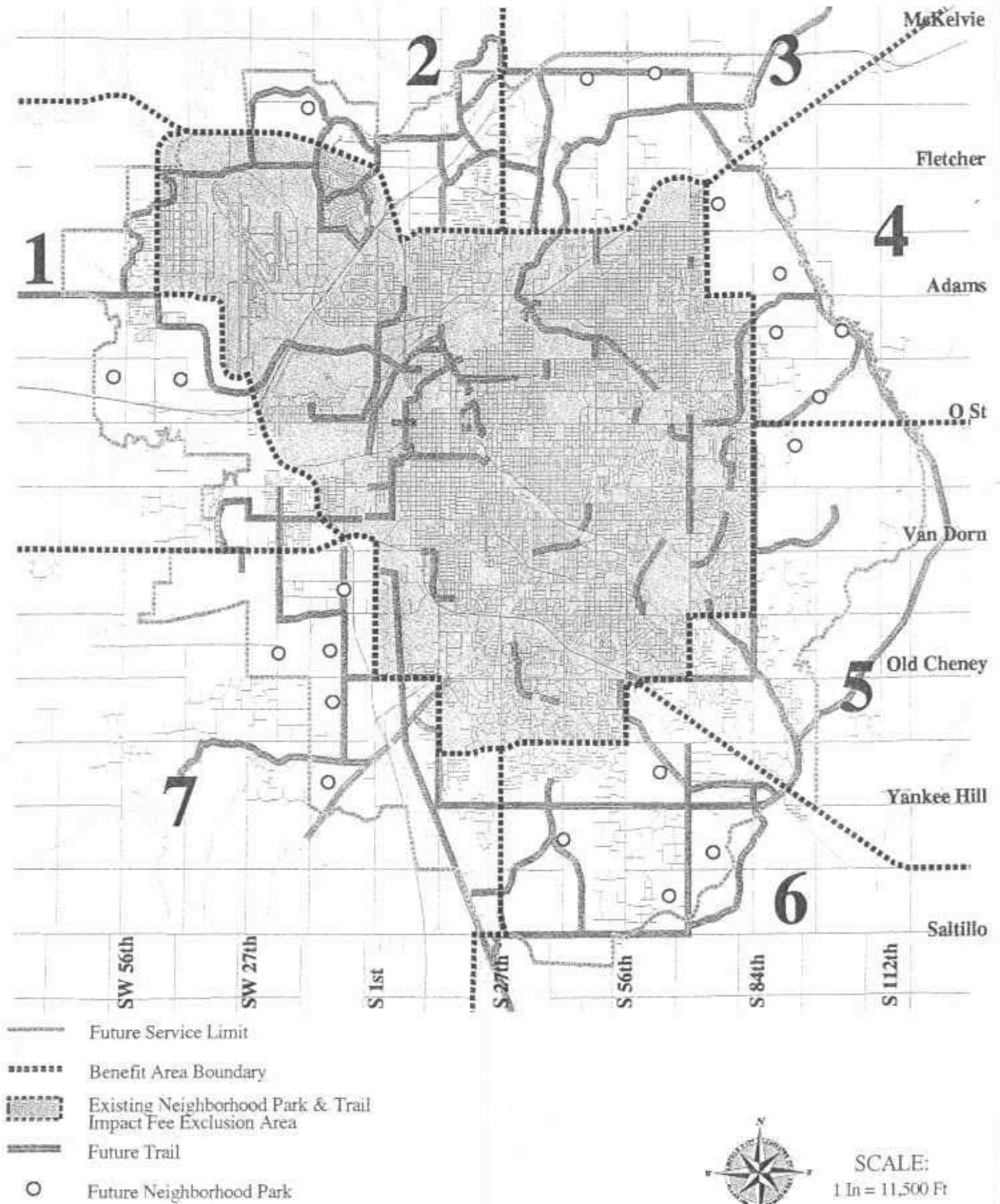
WATER DISTRIBUTION IMPACT FEE BENEFIT AREAS MAP



SCALE:
1 In = 11,500 Ft

017

NEIGHBORHOOD PARK & TRAIL IMPACT FEE BENEFIT AREAS MAP



018

This is a detailed street map of the City of Lincoln, Nebraska. The map shows the city's boundaries, major highways (Interstates 80 and 480, and State Routes 68 and 26), and a dense network of local streets. The streets are labeled with their names, and the map is oriented with North at the top. The city limits are outlined in a thick black line. The map includes various landmarks and features, such as the University of Nebraska-Lincoln campus, the Lincoln Convention Center, and the Lincoln Municipal Center. The map is a black and white line drawing, typical of a printed street map.

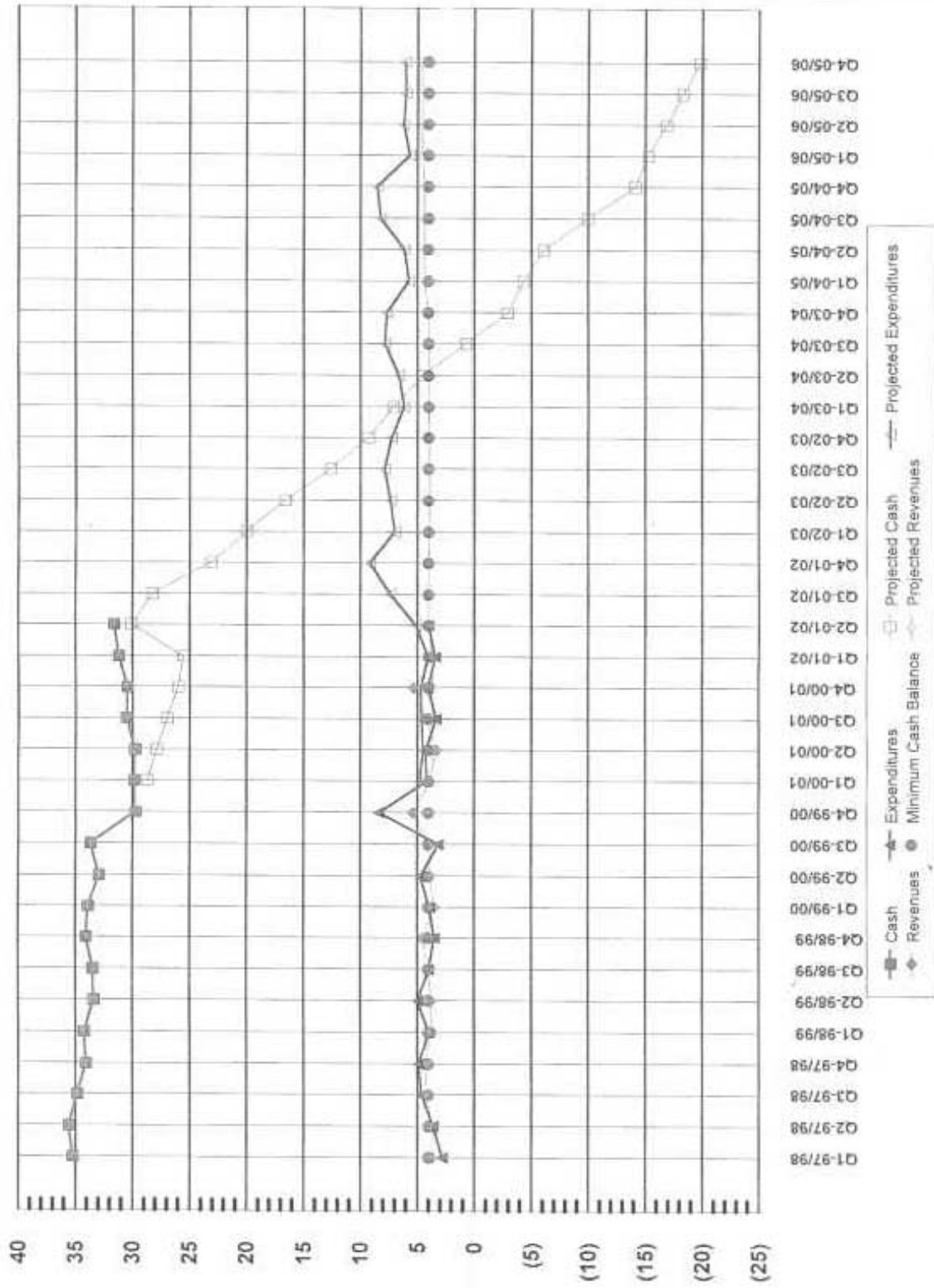


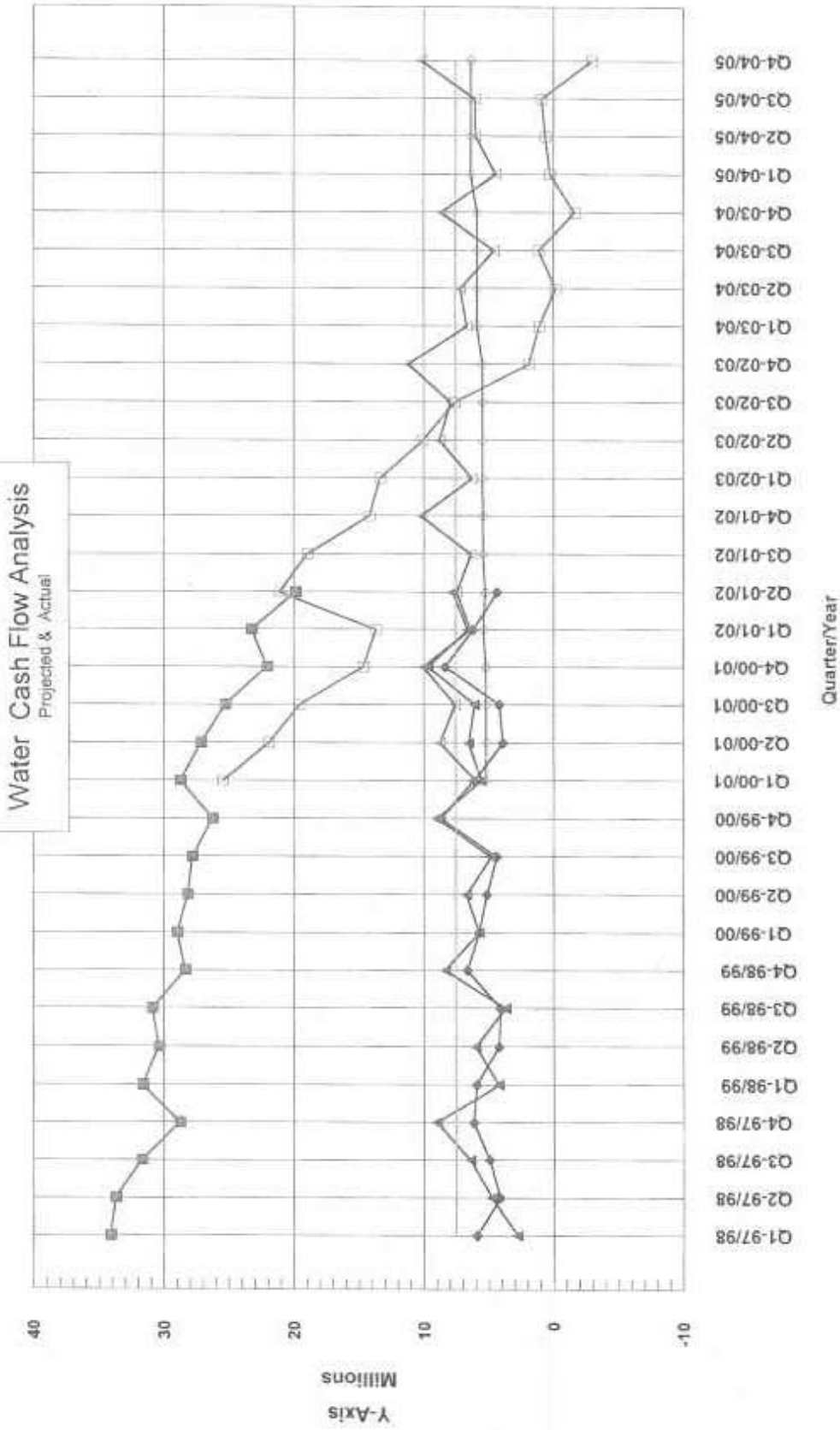
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10	1300

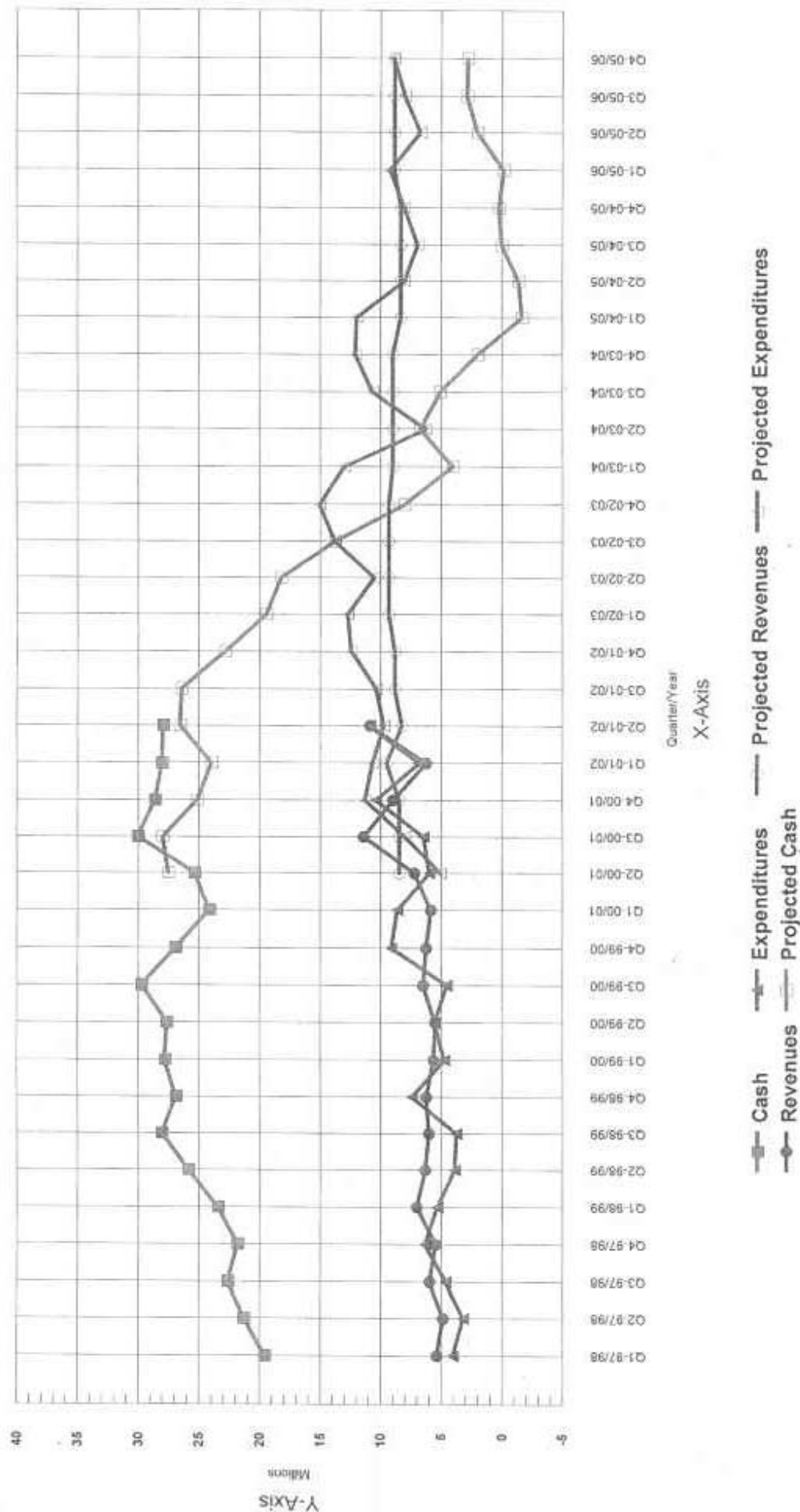
019

Wastewater Cash Flow Analysis






Street Construction Cash Flow Analysis (Includes Vehicle Tax Residual and Construction Funds)



Lincoln-Lancaster Planning Department
Memorandum

TO: Planning Commission

FROM: Marvin Krout, Planning Director 

DATE: October 14, 2002

SUBJECT: *Amendment to Impact Fee Ordinance Draft of October 8th, 2002 regarding the Downtown/Antelope Valley Arterial Street Fee Exclusion Area*

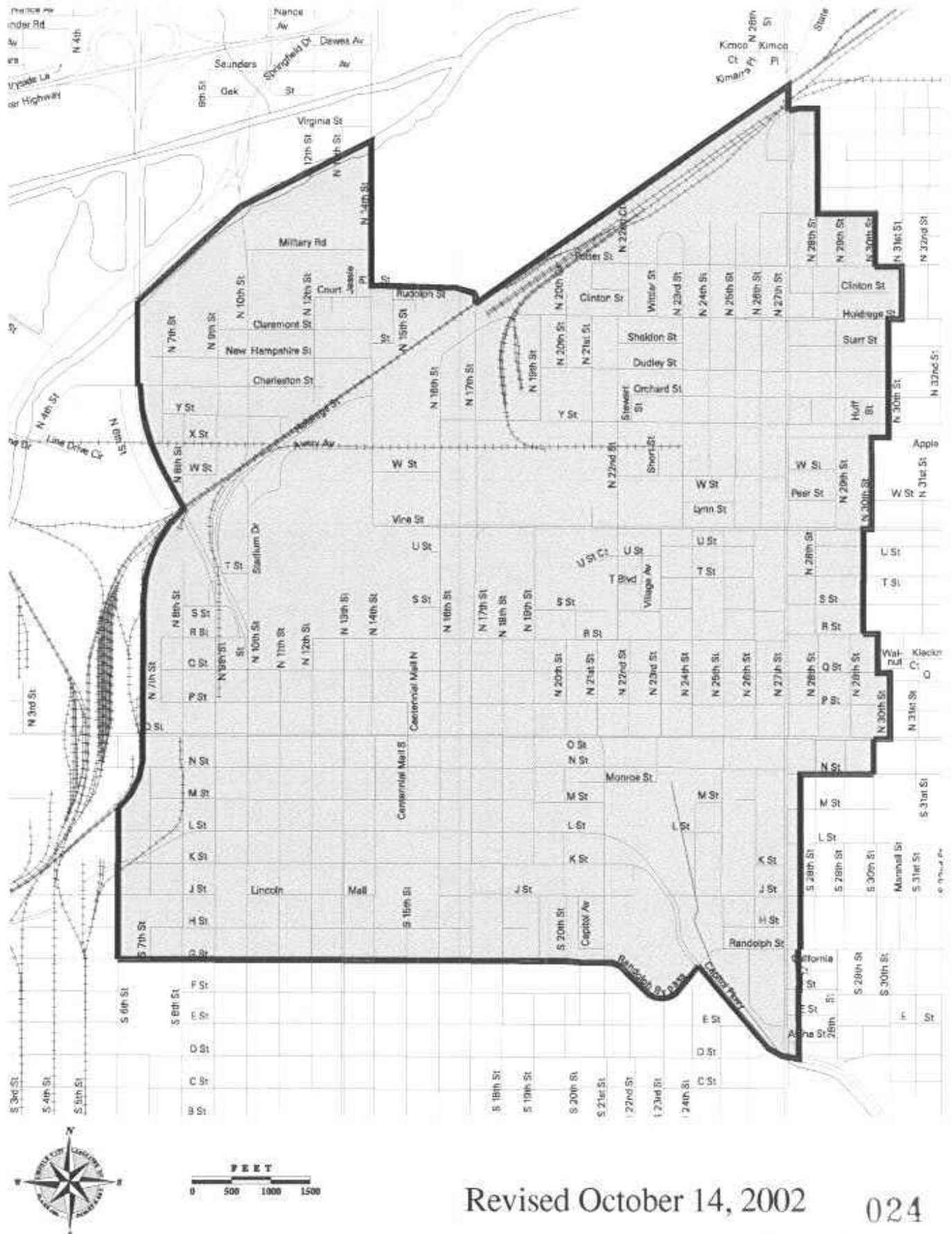
COPIES: Mayor Don Wesely, Kent Morgan, Marc Bowen, Ann Harrell, Mayor's Office
Rick Peo, City Attorney
Allan Abbott, Steve Masters, Margaret Remmenga, Public Works
Marc Wullschleger, Dallas McGee, Urban Development

In response to suggestions during the past week, attached please find an additional amendment to the October 8th Impact Fee Ordinance (Change of Zone #3366) distributed to you last week.

This minor amendment would add a small area in the southwest portion of Downtown into the Downtown/Antelope Valley Arterial Street Fee Exclusion Area, as well as further clarify the Exclusion Area's boundaries.

The additional southwestern area -- generally between 6th and 8th Street, from O to G Street -- has been recommended for inclusion by the City's Urban Development Department. There are also some minor adjustments to the western line of the exclusion area from I-180 to G Street in order to follow definable lines such as right-of-way or railroad tracks. It includes a transitional area that is proposed for redevelopment in the *Investment Strategy for a Competitive Downtown*, which is an approved subarea plan of the 2025 Comprehensive Plan (page F 156.)

DOWNTOWN / ANTELOPE VALLEY ARTERIAL STREET FEE EXCLUSION AREA MAP



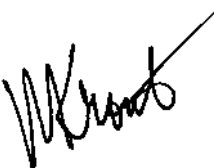
Revised October 14, 2002

024

Lincoln-Lancaster Planning Department

Memorandum

TO: Planning Commission

FROM: Marvin Krout, Planning Director 

DATE: October 16, 2002

SUBJECT: *Amendments to Impact Fee Ordinance Draft of October 8th, 2002 (as amended October 14th, 2002) in Regards to Other Government Agencies*

COPIES: Mayor Don Wesely, Kent Morgan, Marc Bowen, Ann Harrell, Mayor's Office
Rick Peo, City Attorney
Allan Abbott, Steve Masters, Margaret Remmenga, Public Works
Marc Wullschleger, Urban Development

In the past several weeks there have been questions as to if impact fees would be collected from other governmental agencies, such as Lancaster County, State of Nebraska, University of Nebraska-Lincoln, Lincoln Public Schools or federal agencies. Courts have ruled that any governmental entity that has the power of eminent domain is exempt from local zoning. The impact fee ordinance as proposed is an amendment to the zoning ordinance, thus these types of government agencies would not pay impact fees. It has been requested that the ordinance note the fact that the City cannot collect these fees.

This language would not apply to the Lincoln Housing Authority (LHA) since state statutes specifically require housing authorities to follow local zoning. The City and the LHA are reviewing an amendment to a previous agreement between the City and LHA in which LHA agreed to pay a fee in lieu of paying property taxes and special assessments.

We recommend the Planning Commission make the following amendment:

1. Add to Section 27.82.020 "Legislative Findings and Purpose" the following text:

"() The City recognizes that under Nebraska law the power of eminent domain is superior to the zoning power and that the City, under its zoning authority, is not permitted to prevent or place limitations upon a public use of property in the futherance of which a governmental entity has been granted condemnation power by the State Legislature. Therefore, the City finds that impact fees cannot be collected for governmental projects for the construction of which the agency in question has the power to condemn or appropriate lands by eminent domain."

2. Add a new section to Section 27.82.060(a) "Exemptions From Impact Fees" to the list of exemptions to read as follows:

"(8) Development or construction by any governmental entity for which the governmental entity has the statutory power of eminent domain shall not pay any impact fees since these entities are exempt from local zoning."

MOTION TO AMEND

I hereby move to amend the Conditions recommended by the Lincoln City/Lancaster County Planning Staff Report for P.A.S.#: CZ#3366 to read as follows:

Section 2. That Title 27 of the Lincoln Municipal Code be amended by adding a new section numbered 27.82.020 as follows:

27.82.020 Legislative Findings and Purpose.

The City Council of Lincoln, Nebraska finds that:

(p) Due to a shortfall of funds necessary to address the community's existing and future public infrastructure needs, the Mayor has created the Mayor's Infrastructure Finance Committee ("Committee") to develop a comprehensive financial package in addition to impact fees that ensures maintenance of the City's existing public infrastructure and the delivery of future public infrastructure to facilitate community growth. The Committee is responsible for preparing an integrated package of recommendations for the Mayor and City Council that combines the work product of three work groups: infrastructure cost savings/efficiencies, financial options and state legislation, operating under the Committee's direction as outlined in the Mayor's Infrastructure Finance Committee: Charge to the Committee dated October 3, 2002, as the same may be amended from time to time ("Charge to the Committee"). The Charge to the Committee calls for the Committee's overall work to be completed no later than June 1, 2003.

Section 5. That Title 27 of the Lincoln Municipal Code be amended by adding a new section numbered 27.82.050 to read as follows:

27.82.050 Imposition of Impact Fees.

(a) Requirement. ~~On and after June 2, 2003 the effective date of this ordinance,~~ any person who applies for a building permit for a development or who applies for any other permit for a development where a building permit is not required, or who seeks to engage in a development for which no permit is required, shall pay a water impact fee, wastewater impact fee, arterial street impact fee, and neighborhood parks and trails impact fee unless the type of development described in the permit or to be engaged in is specifically exempted, waived or subsidized by this ordinance.

"the effective date of this ordinance" language also needs to be amended to "June 2, 2003" in Sections 27.82.060(a)(3) and (5), 27.82.090(a) and 27.82.100(a) and (b)(1)

Section 17. Notwithstanding the foregoing or any language to the contrary contained in this ordinance, no person shall be obligated to pay and the Impact Fee Administrator shall not be allowed to collect any impact fee under this ordinance unless on or before June 1, 2003, the Committee or Mayor has prepared and filed with the City Clerk an integrated package of recommendations consistent with the Charge to the Committee.

Section 187. That this ordinance shall be in full force and effect as of _____, 2002, after its passage and publication according to law.

Introduced by:

Lincoln-Lancaster Planning Department
Memorandum

TO: City Council

FROM: Marvin Krout, Planning Director *NK*

DATE: October 17, 2002

SUBJECT: *Summary of Planning Commission Action on Impact Fee Ordinance*

COPIES: Mayor Don Wesely, Kent Morgan, Mark Bowen, Ann Harrell, Mayor's Office
Don Herz, Finance
Lynn Johnson, Parks and Recreation
Rick Peo, City Attorney
Allan Abbott, Steve Masters, Margaret Remmenga, Public Works
Marc Wullschleger, Hallie Salem, Steve Werthmann, Dallas McGee, Urban
Development

Attached is a summary of the amendments approved by the Planning Commission to the Impact Fee Ordinance (Change of Zone #3366). The City Council briefing on this item is scheduled for 10:10 a.m. on Monday October 21st.

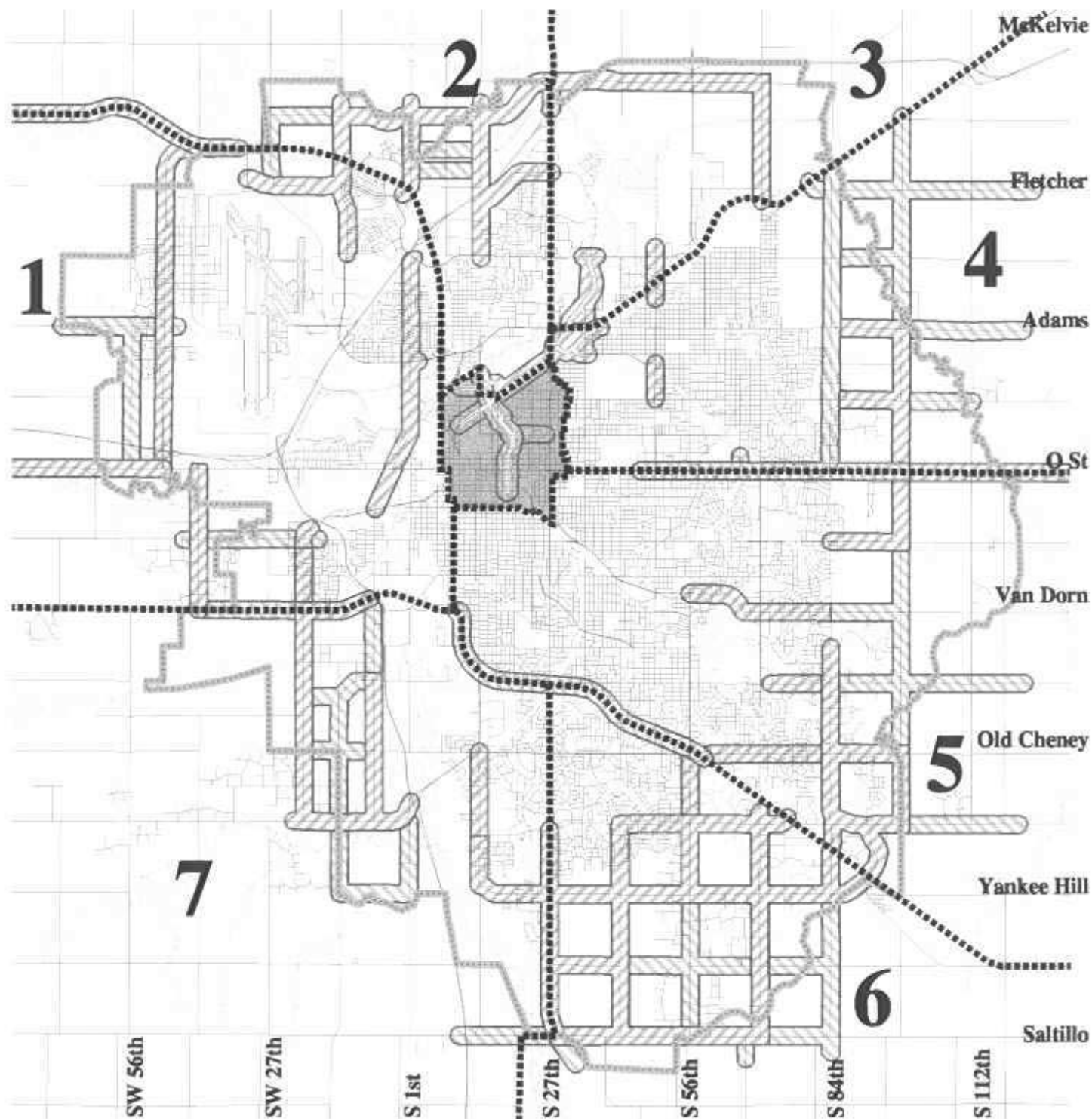
Summary of Planning Commission Action on Impact Fee Ordinance

October 16, 2002

The following is a summary of the changes made by the Planning Commission on October 16th to the Impact Fee Ordinance, as presented to the City Council on August 26th, 2002.

1. Added text noting work of Mayor's Infrastructure Finance Committee and provision that impact fees not be collected unless Committee or Mayor has filed package of infrastructure recommendations on or before June 1, 2003. (Ordinance Section 27.82.020 and 27.82.050)
 2. Change from four to **Seven Arterial Street Benefit Areas**. (27.82.070 "Impact Fee Funds") (see map)
 3. **Divided Water Impact Fee** into two parts: Water System Fee and Water Distribution Fee. The Water System Fee would be collected city wide and would be used for improvements such as water treatment, reservoirs, pump stations and major water transmission lines from Ashland to Lincoln. The Water Distribution Fee would be used for the major water mains used to distribute water throughout the city. Amendment also includes a minor change to clarify that wastewater impact fees could be used to build improvements outside the city limits, which is sometimes necessary due to topography. (27.82.070)
 4. Provided for Water Distribution Fee to be collected by **Seven Water Distribution Benefit Areas**. (27.82.070) (see map)
 5. Change from four to **Seven Neighborhood Park and Trail Benefit Areas**. (27.82.070) (see map)
 6. Amended Neighborhood Park & Trail fee map to **exclude existing neighborhoods** with sufficient parks & trails so that fee is not collected in these areas. (27.82.070)
 7. Changed time period for City to use impact fee funds before refund from **10 to 8 years** and allowed for up to 6 months for application of refund. (27.82.080 "Refunds of Impact Fees Paid")
 8. Change to allow other funds, such as wheel tax, utility rates, to repay developer who makes eligible improvements. (27.82.090 "Post Ordinance Developer Agreements")
 9. Change 'Discretion to Reduce Impact Fees' in order to "promote economic development of the City or the public, health, safety and general welfare" to action by Mayor based on criteria set by City Council. (27.82.110 "Miscellaneous Provisions")
 10. Minor changes in 27.82.020 "Legislative Findings and Purpose" and 27.82.030 "Intent" to clarify ordinance intent and recognize previous annexation agreements.
 11. Added definitions on cost of construction, encumber, fee payer, low and moderate income areas and clarify other definitions. (27.82.040 "Definitions")
 12. Amended exemptions section to add a table listing qualifying annexation agreements; clarified fire protection exemption; and provided for application of low income exemption up to 30 days after occupancy permit. (27.82.060 "Exemptions")
 13. Clarified in Section 27.82.090 "Post Ordinance Developer Agreements" and 27.82.100 "Developer Reimbursement" that land dedicated for parks, water and wastewater facilities is eligible for reimbursement.
 14. Correct 27.82.110 "Miscellaneous Provisions" to note that inflation will be factored beginning in January 2004 as noted in the impact fee proposal.
 15. Amended the Downtown/Antelope Valley Arterial Street Exclusion Area to add an area between 6th and 8th Street. (see map)
 16. Note that, due to court rulings, impact fees cannot be collected from other government entities that have eminent domain authority that exempts them from following local zoning.
- If you have any questions please contact:
Rick Peo, City Attorney's Office at 441-7264,
Stephen Henrichsen, Planning Dept. at 441-6374, or
Steve Masters, Public Works and Utilities at 441-7588

ARTERIAL STREET IMPACT FEE BENEFIT AREAS MAP

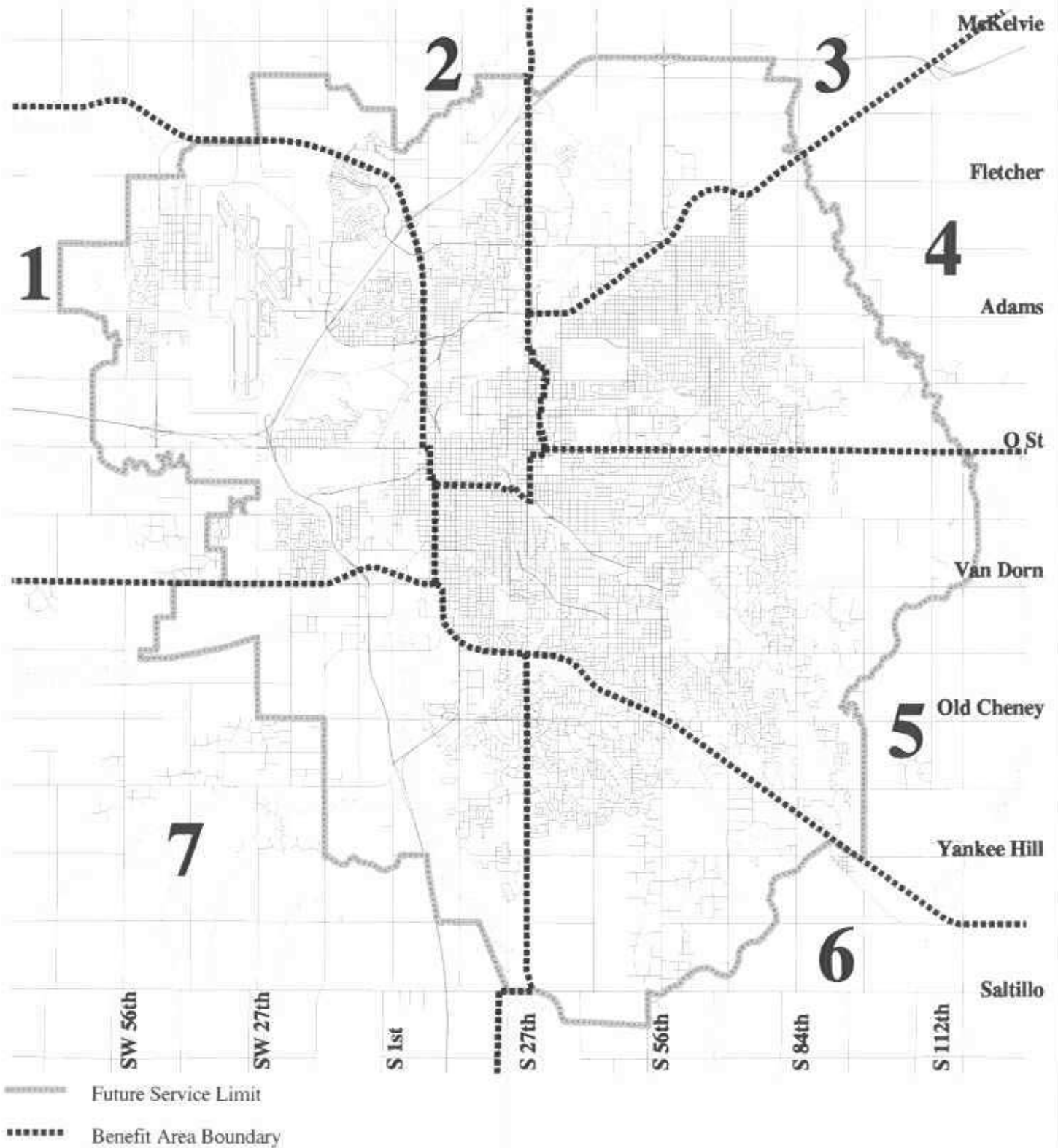


- Future Service Limit
- Benefit Area Boundary
- Downtown/Antelope Valley Impact Fee Exclusion Area
- ▨ 2 Lanes + Center Turn Lane
- ▨ 4 Lanes + Center Turn Lane
- ▨ 6 Lanes + Center Turn Lane



SCALE:
1 In = 11,500 Ft
030

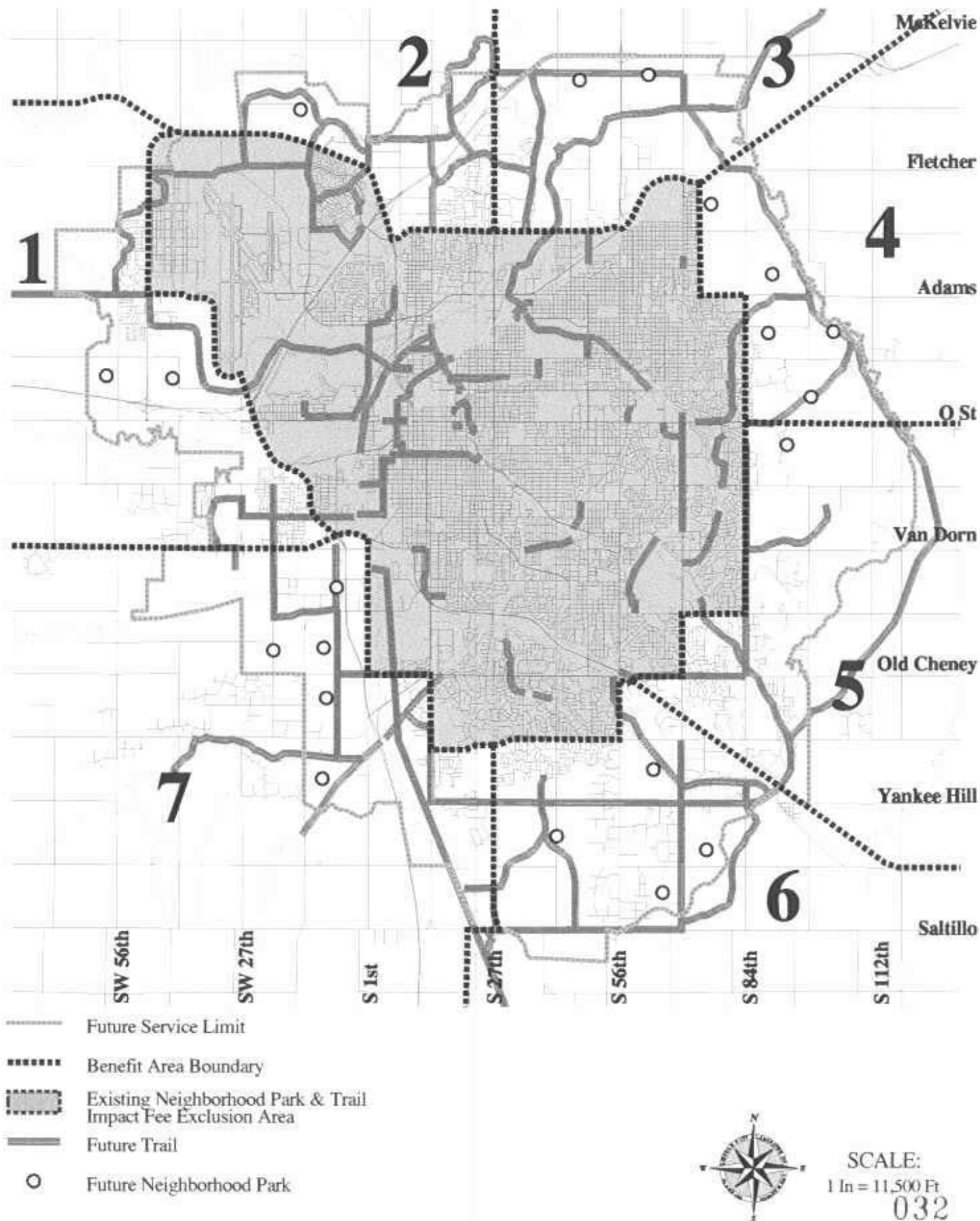
WATER DISTRIBUTION IMPACT FEE BENEFIT AREAS MAP



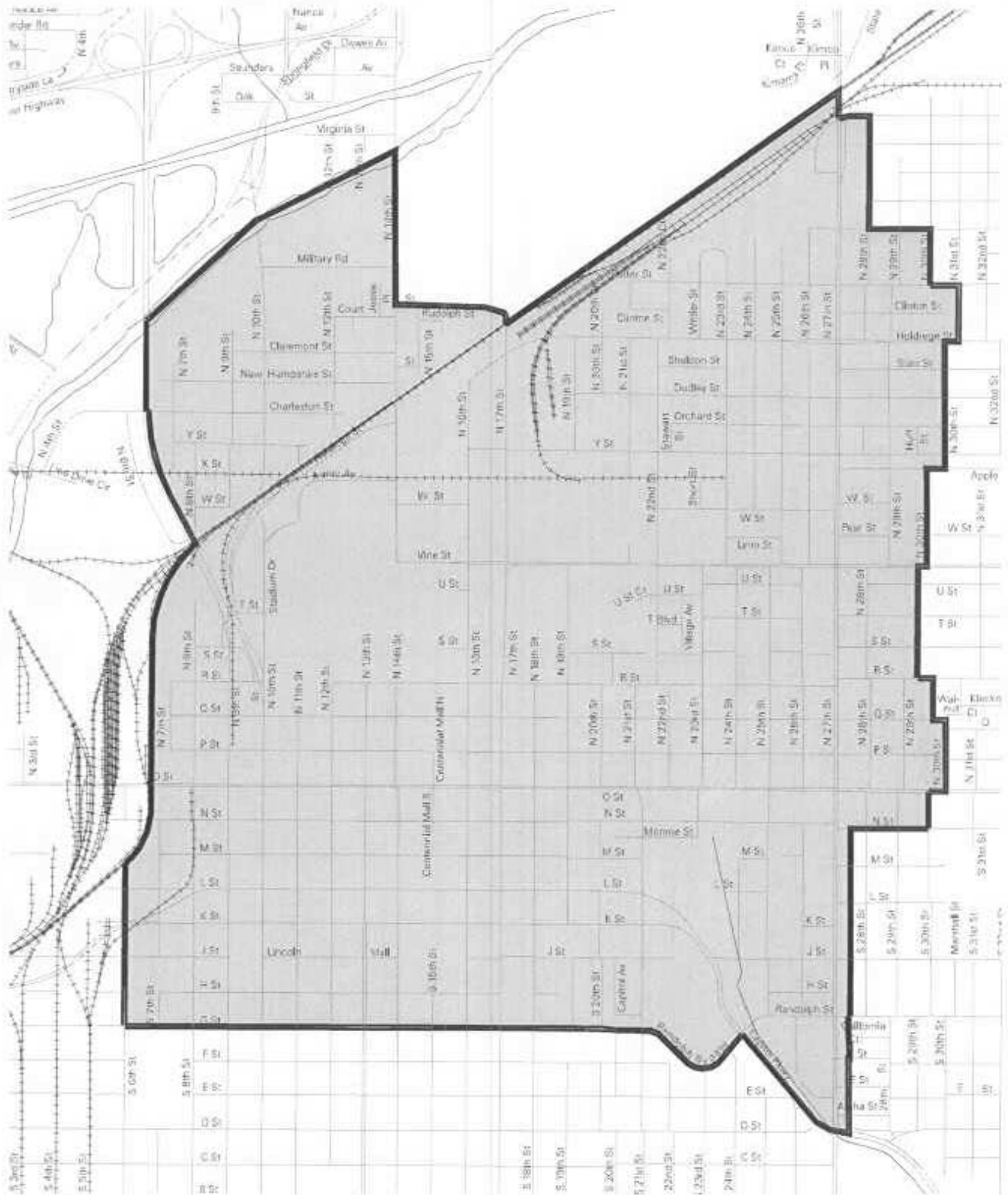
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NEIGHBORHOOD PARK & TRAIL IMPACT FEE BENEFIT AREAS MAP



DOWNTOWN / ANTELOPE VALLEY ARTERIAL STREET FEE EXCLUSION AREA MAP



Revised October 14, 2002

033